

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

DAMON L. BEAMAN, )  
                        )  
                        )  
Movant,              )  
v.                     ) No. 05-0342-CV-W-FJG  
                        ) Crim. No. 02-0177-01-CR-W-FJG  
UNITED STATES OF AMERICA, )  
                        )  
                        )  
Respondent.          )

**ORDER DENYING MOVANT A CERTIFICATE OF APPEALABILITY**

On December 9, 2005, this Court entered an Order (Doc. No. 11) denying Movant's motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. On January 3, 2006, movant filed the present Motion for Certificate of Appealability (Doc. No. 14).

A certificate of appealability will be issued only if the applicant has made a substantial showing of the denial of a constitutional right and has indicated which specific issue or issues satisfy the showing required. 28 U.S.C. § 2253(c)(2) & (3). Additionally, "the petitioner 'must demonstrate that the issues are debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed further.'" Randolf v. Kemna, 276 F.3d 401, 403 n.1 (8<sup>th</sup> Cir. 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 n.1 (1983))(alteration in original). Although this may be referred to as a "modest standard," id. (citing Charles v. Hickman, 228 F.3d 981, 982 n.1 (9<sup>th</sup> Cir. 2000)), movant has failed to meet this burden.

Accordingly, it is hereby ORDERED that movant's Petition for a Certificate of Appealability (Doc. No. 14) is DENIED.

Dated: January 13, 2006  
Kansas City, Missouri.

/s/ Fernando J. Gaitan, Jr.  
Fernando J. Gaitan, Jr.  
United States District Judge